

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiffs,)	8:06CR312
)	
v.)	
)	
MARTIMIANO TAMAYO,)	ORDER
)	
Defendant.)	
)	

This matter is before the court following a change of plea hearing. The court reviewed the psychiatric examination provided by the Bureau of Prisons pursuant to 18 U.S.C. § 4241. The court concludes by a preponderance of evidence that defendant is not competent to stand trial at this time. The court has also determined that the defendant should be remanded to the Attorney General for hospitalization pursuant to § 4241(d) to determine whether there was a substantial probability in the foreseeable future that he would attain the capacity to permit the trial in this case to proceed. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (person held because of “incapacity to proceed to trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future”). In addition, the court will set a status conference hearing date to determine the progression of defendant’s treatment regimen and to determine whether defendant can stand trial.

IT IS ORDERED:

1. Defendant is discharged to the Attorney General to determine whether there is a substantial probability that in the foreseeable future defendant will attain the capacity to permit the trial to proceed.

2. Speedy trial is waived in the interests of justice until such time as the court deems otherwise.

3. The defendant and counsel shall appear on **November 2, 2007, at 9:00 a.m.**, Courtroom No. 3, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, for a status hearing in this case.

DATED this 6th day of July, 2007.

BY THE COURT:

s/ Joseph F. Bataillon
Chief U.S. District Judge